Long-Range Issues

Introduction

At the beginning of the last decade, the state was faced with several major issues that had immediate and long-term implications. The state has been focused on its water and sewer systems, school facilities, correctional facilities; unfunded liabilities in workers' compensation and retirement systems; and the growing cost of health insurance. Those building blocks of West Virginia's economy will require continued attention as we continue through this century.

Infrastructure Projects/Improvements

Safe Roads Amendment of 1996
In November 1996, a constitutional amendment was ratified by the state's citizens to permit the sale of up to $550,000,000 in highway bonds over the next five years. Increments of $110,000,000 could be sold July 1 of each year in which the Legislature authorized their sale. Bonds not sold in any year could be carried forward and sold in a subsequent year, except no bonds could be sold after FY 2002. Proceeds must be used for general highway construction and improvements in each of the 55 counties. Debt service is to be paid from the State Road Fund.

The final $110,000,000 in bonds was sold in July 2001, and all funds, including interest earned and federal reimbursement, were expended by June 20, 2004. In total, the bond proceeds were used to finance five programs at the following approximate rates:

* 21% for matching federal funds available under TEA-21
* 46% for expressway, trunkline, and feeder improvements
* 25% for state and local service improvements
* 4% for bridge improvements
* 4% for economic development projects

The total cost of all projects financed with these bonds was $716,192,664.

Some of the major projects funded entirely or in part from these bond proceeds were:

* WV Route 35 upgrade to a four-lane road in Mason and Putnam Counties
* Monongalia / Fayette Expressway in Monongalia County
* Tolsia Highway in Wayne and Mingo Counties
* West Virginia Route 10 connector from Logan to Man
* Philippi Bridge Bypass in Barbour County
* Merritts Creek Connector in Cabell County
* Beckley Bypass in Raleigh County
* WV Route 2 upgrade in Brooke County

West Virginia Regional Jail and Correctional Facility Authority
The West Virginia Regional Jail and Correctional Facility Authority has two fundamental missions—operating the regional jails and constructing the state's secure facilities for not only the authority itself, but for the Division of Corrections and the Division of Juvenile Services as well.

First, the authority is charged with the responsibility of operating regional jails with management plans that meet or exceed all state and federal jail operational standards. The operational budget for the jails is exclusively funded through per diem collections from counties, municipalities, the West Virginia Division of Corrections, the federal Department of Justice, and other jurisdictions that house inmates in regional jails.

The regional jail facilities were developed as a result of a Master Plan approved in 1989 that outlined ten regions in the State. There are nine regional jails currently in operation (Eastern in Berkeley County, Central in Braxton County, South Central in Kanawha County, Southern in Raleigh County, Northern in Marshall County, Southwestern in Logan County, Potomac Highlands in Hampshire County, North Central in Doddridge County, and Western in Cabell County). The tenth and final regional jail—Tygart Valley in Randolph County—is scheduled to open by late Summer 2005.

The authority's second mission is to acquire, construct, and/or renovate regional jails, correctional facilities, and juvenile detention facilities. The first phase of construction occurred as a result of the 1990 sale of $118,694,767 of lease revenue bonds by the West Virginia Building Commission. The sale met approximately 50% of the adult correctional construction needs of the State at that time. The original bond was refunded in 1998 to reduce interest cost from 6.92% to 4.97% and to fund the construction of the Tygart Valley Regional Jail from the additional savings realized.

In 1998, the Public Employees Retirement System (PERS), under the direction of the Investment Management Board, invested $150 million for continued construction of correctional and detention facilities. The Legislature created a special revenue fund (from up to $20 million per year of current insurance taxes) to repay PERS for the capital invested and investment earnings. The amount of payment was calculated every year by averaging the previous five years' interest returned on PERS's fixed income investments.

Recognizing that a great deal of savings in interest payments could be realized, the Legislature, during its December 2001 Special Session, passed legislation authorizing the issuance of bonds through the Economic Development Authority secured by lease payments; these payments are made from the same special revenue source that was created to repay PERS.

The first two series of these bonds were issued by the Economic Development Authority in January 2002. The first series repaid the balance owed to PERS, funding the construction of the North Central Regional Jail, Potomac Highlands Regional Jail, Eastern Regional Jail, Lakin Correctional Center for Women, Donald R. Kuhn Juvenile Center, Western Regional Jail, and the renovation of the Warden's Residence at Pruntytown. The second series is funding the $6 million second phase of construction at Lakin Correctional Center for Women and the $6 million Tiger Morton Juvenile Center.

During February 2003, the third series of these bonds were sent to market. This sale funded the $6.8 million J.M. "Chick" Buckbee Juvenile Center, the $6 million Robert Shell Juvenile Center, the $6 million Gene Spadaro Juvenile Center, and $3.1 million for renovations to transform the old Eastern Regional Jail into the Martinsburg Correctional Center, a 120-bed intake center for the Division of Correction.

In January 2004, the final series of these lease revenue bonds were issued in order to fund the construction of a new Davis Juvenile Center in Tucker County (renamed the Kenneth "Honey" Rubenstein Juvenile Center), renovations and additions to the Eastern Regional Juvenile Detention Center (which will then be reopened as the Vickie V. Douglas Juvenile Center), additions to Huttonsville Correctional Center, and renovations to the Johnston School at the Industrial Home for Youth at Salem.

Infrastructure Improvement Amendment

The Infrastructure and Jobs Development Council was created to cope with a $3 billion need relating to water and wastewater development in West Virginia. The Infrastructure Improvement Amendment to the West Virginia Constitution was ratified at the general election held November 8, 1994. The amendment authorized the issuance of $300 million in general obligation bonds for the purpose of construction, repair, and improvement of water supply and sewage treatment systems and for economic development sites. The amendment irrevocably dedicates the first $24 million of severance taxes collected each year for their repayment.

In 1998, the authority to issue infrastructure revenue bonds was provided in the legislation. Repayments on the loans to project sponsors from previous loans provide the debt service for the revenue bonds. In October 2000, $45 million in revenue bonds were issued, and, in October 2003, the Infrastructure Council issued another $45 million in revenue bonds.

The Infrastructure and Jobs Development Council estimates that approximately $1.6 billion in needs have been met to date by leveraging bond proceeds with federal and other sources. As regulations and legislation change, the definition of need changes. In order to keep up with the changing need, legislation was passed in the 2001 session earmarking up to $40 million annually thereafter for infrastructure projects from excess lottery revenues. To date, the Infrastructure Fund has received $98 million from the Excess Lottery Fund.

Also, during the 2002 legislative session, HB 4005 was passed establishing the West Virginia Economic Development Grant Committee to authorize bonds for economic development, infrastructure, and capital improvement projects. A legal challenge was filed questioning the formation of the committee. After the Legislature addressed the concerns of the West Virginia Supreme Court of Appeals through the passage of SB 2007 on July 1, 2003, the Grant Committee was reappointed and approved a total of 48 projects, all but one of which is in the form of a grant, with the remaining project receiving a low interest loan.

Nineteen million dollars a year from the Excess Lottery Fund has been dedicated to pay debt service for the bond issue. The bond issue closed in January 2004 in the amount of $249,895,000 which generated funds to cover the entire $225,855,802 needed to fund the 48 approved projects, $18,989,900 to the debt service reserve account, $4,904,054 to fund the cost of issuance, and $145,244 deposited to the bridge loan fund to be administered by the Council for Community and Economic Development.

Projects approved by the committee range from traditional infrastructure including water, sanitary sewer, storm water facilities, and roadways for industrial parks to revitalization projects that will result in economic development in some the state's larger cities. The approved projects leverage approximately $700,000,000 from other sources of funding resulting in close to $1 billion of investment in the State of West Virginia.

School Building Authority

The School Building Authority of West Virginia was created in 1989 to provide state funds for the construction and maintenance of primary and secondary school facilities to meet an estimated $1.2 billion need.

To meet immediate needs, the Legislature authorized the School Building Authority to issue five series of bonds. These five bond series produced approximately $436 million for school facility construction, renovation, and repair. The annual debt service requirement of the first four series of bonds is approximately $23.5 million funded from the General Revenue Fund through the year 2019. The 1994A Series Bonds are secured by dedicated Lottery proceeds and require an annual debt service of approximately $18 million. The original 1994A series matured in 2004 and has been reissued with a new maturity payable through the year 2014.

In 1994, the West Virginia Legislature initiated a "pay-as-you-go" program to continue funding school construction without continued issuance of debt. The "pay-as-you-go" program was initiated with approximately $36 million in Budget Surplus funds. Thereafter, the School Building Authority has received annual funding for both new school construction and major improvements for existing facilities. This annual funding, statutorily dedicated from Consumer Sales Tax revenues, began at a level of $10 million and grew to the maximum allowed of $22 million from that source. Of this dedicated amount, $5 million was for major improvements to existing facilities and $17 million for new construction.

Effective July 1, 1998, the statute was amended to direct any annual difference between FY 1997 actual debt service payments and funds required for the current fiscal year for all previously issued school capital improvement bonds be added to the amount available in the pay-as-you-go program for new construction. Due to this amendment, the amount available for new construction, including the $17 million mentioned above, is as follows: $17.81 million in FY 1999, $20.21 million in FY 2000, $22.54 million in FY 2001, $22.76 million in FY 2002, $24.97 million in FY 2003, and $25.10 million in FY 2004. The maximum amount of $27.22 million per year began in FY 2005 and will continue into the future.

During the 2001 Legislative Session, $25 million in additional annual funding was earmarked from excess lottery revenues for the School Building Authority's Debt Service Fund but stipulated that monies were available for the "pay-as-you-go" program until such bonds were authorized by the Legislature. This amount was reduced to $19 million beginning in FY 2005 and was subsequently depleted during that budget year to utilize funds for other purposes in the general budget. These funds statutorily return to the school construction program in subsequent years.

Since the inception of the SBA, $972 million in state dollars and $407 million in local dollars have been dedicated to West Virginia school facilities. This equates to 32 new high schools, 36 new middle schools, 48 new elementary schools, 80 major school addition/renovation projects and over 1,200 minor renovation projects. Over 75% of West Virginia's students now attend classes in better school facilities than they did in 1990.

Health Care

The State of West Virginia faces many challenges and obstacles in health care. Nationally, medical costs are increasing significantly after having maintained a stable level for several years, and the prices for prescription drugs are increasing even more significantly. An aging population, new, more costly medical technologies, and increasingly expensive "new generation" drugs are all contributing factors to rising health care costs.

In addition to these national trends, West Virginia faces other obstacles unique to the Mountain State. According to a report by the National Center for Health Statistics, West Virginia has one of the least healthy populations in the country. The state has the highest death rate from heart disease and lung disease and the second highest death rate from cancer and diabetes of any state in the United States. West Virginia's government sponsored health insurance plans (Public Employees Insurance Agency, Medicaid, Workers' Compensation) have begun working together to jointly reduce costs and improve the quality of health care.

Health Care: Medicaid
West Virginia began its Medicaid program in 1966, one year after it was approved as an amendment to the Social Security Act. Starting in 1988, the federal oversight agency, Health Care Financing Administration (now the Centers for Medicare and Medicaid Services), began requiring states to expand coverage to include new classes of eligible individuals.

For the federal fiscal year ended September 30, 2004, the West Virginia Medicaid Program provided insurance coverage to approximately 370,000 West Virginia citizens. Children make up almost half of the beneficiaries at 49%, the blind and disabled approximately 25%, the elderly approximately 10%, with the remaining 16% being adults. While approximately 10% of the beneficiaries are the aged, they account for almost 27% of the expenditures.

Five types of services account for approximately 69% of expenditures. These services are nursing homes, prescription drugs, inpatient/outpatient hospitals, home and community-based services, and physician services. The largest increases in FY 2004 occurred in pharmacy, nursing home, and home and community-based services.

Medicaid offers a comprehensive benefit package to the state's poorest and most disabled citizens that includes a pharmacy benefit, as well as a variety of long-term care options, including community-based care, nonmedical transportation, and other benefits not offered in the private insurance market. Financial support for this program comes from federal and state revenue. Unlike the PEIA program which is financed with all state dollars, the Medicaid program is financed at an approximate 25% state/75% federal match, which means that for every dollar the state invests, we are able to match that with three federal dollars.

Medicaid funding is dependent primarily on four funding sources: General Revenue, Lottery, Medical Services Trust Fund, and Provider Tax. Medicaid funding has increased from approximately $334 million in 1995 to over $529 million in 2005.

Medicaid is confronted with a fundamental problem—how to design an appropriate benefit package for the poorest and most disabled citizens of West Virginia and ensure access to Medicaid services, and still meet cost containment and program integrity goals.

Health Care: Public Employees Insurance Agency

The Public Employees' Insurance Agency (PEIA) was established by the Legislature in 1971 to provide a program of health, life, and prescription insurance for its member agencies. In accordance with the State Code Chapter 5-16, PEIA provides coverage for all state employers, including institutions of higher education. In addition, political subdivisions in the state and certain other charitable and public service organizations may request to be covered by PEIA.

In 1991, a Finance Board was created by the Legislature to bring fiscal stability through the development of an annual financial plan designed to meet the agency's estimated total financial requirements. The annual financial plan takes into account all projected revenues and apportions costs equitably among participating employers, employees, and retired employees and providers of health care services. Since the 1990 fiscal year, adequate funding has been provided to ensure timely payments of PEIA obligations. Effective January 1, 2000, the Finance Board must submit a prospective financial plan encompassing five fiscal years.

PEIA completed FY 2004 with total net assets of $140 million. Legislation passed in the 2001 session requires that the cost-sharing between employer and employee reach 80%–20% by the 2007 fiscal year. PEIA continues to adjust rates annually to achieve this ratio. Additionally, beginning with FY 2002, the finance board must develop financial plans that generate revenues sufficient to fund a reserve of at least 10% of projected total plan costs. Rising drug costs, increasing costs of health care, state budget constraints, 80%–20% cost sharing, and the 10% reserve requirement are all issues the Finance Board must consider in preparing the agency's five-year financial plan. The current financial plan projects positive net assets through FY 2009. The financial plan must be submitted to the Governor and the Legislature by January 1 of the preceding year with an effective date for the financial plan of July 1 of each plan year.

Health Care: West Virginia Children's Health Insurance Program (WV CHIP)

WV CHIP provides full-range health insurance coverage to children of working families, with incomes up to 200% of the Federal Poverty Level. At September 30, 2004, 24,035 children were enrolled, an increase of 6% over last year. Targeted outreach efforts are focused on the goal of enrolling all eligible children. The West Virginia Children's Health Insurance Board oversees WV CHIP's benefit plan and finances to ensure that funding is sufficient to support the services covered by the insurance program.

Unfunded Liabilities

Unfunded Liabilities: Workers' Compensation

West Virginia has been one of five states operating an exclusive, state-managed workers' compensation insurance system: private insurance companies have not been able offer this type of coverage to employers. Established in 1913, the Workers' Compensation Commission is a component part of state government and operates as a special revenue fund. The goal of the Workers' Compensation Commission is to provide a prompt and equitable system of compensation for employees injured in the course of and resulting from employment.

As of June 30, 2004 the fund deficit in Workers' Compensation was estimated to be $2.965 billion (liabilities discounted at 5.0%). On July 1, 2003, major workers' compensation reform legislation was enacted that has affected and will continue to affect the actuarially determined estimated liability for unpaid claims. The legislation, approved under Senate Bill 2013:

- Changed the methodology regarding the determination of eligibility for and the computation of disability benefits in order to provide responsible benefit reductions
- Provided for tighter control on health care expenditures
- Provided for tighter control of premium dodgers and created an employer violator system
- Prohibited premium base rate increases for a period of two years

Senate Bill 2013 also established the West Virginia Workers' Compensation Commission as a separate entity governed by the Workers' Compensation Commission Board of Managers. The primary responsibilities of the Board of Managers are:

- Ensure the effective administration and financial viability of the commission
- Review and approve, reject, or modify rules that are proposed by the executive director for the operation of the workers' compensation system
- Establish and monitor performance standards and measurements to ensure the timeliness and accuracy of activities performed under the workers' compensation laws and rules
- Review and approve, reject, or modify all classifications of occupations or industries, premium rates and taxes, administrative charges, rules and systems of rating, rating plans, rate revisions, deficit management and deficit reduction assessments, and merit rating for employers
- In conjunction with the executive director initiate, oversee, and review all independent financial and actuarial reviews of the commission
- Approve the allocation of sufficient administrative resources and funding to efficiently operate the workers' compensation system
- Review and approve, reject, or modify the budget for the operation of the commission
- Approve the designation of health care providers to make decisions for the commission regarding appropriateness of medical services
- Require the workers' compensation commission to develop, maintain, and use an effective program of return-to-work services for employers and workers
- Require the workers' compensation commission to develop, maintain, and use thorough and efficient claims management procedures and processes and fund management in accordance with the generally accepted practices of the workers' compensation insurance industry
- Review and approve, reject, or modify standards to be considered by the commission in making decisions on all levels of disability awards; and
- Study the feasibility of, provide a plan for, and provide a proposal for a request for proposals from the private sector for, privatizing the workers' compensation system.

On July 1, 2004, the West Virginia Supreme Court upheld a key piece of the legislation in the Wampler Foods, Inc. v. Workers' Compensation Div. (602 S.E. 2nd 805, W.Va., Jul 01, 2004) decision affirming that the new law enacted under Senate Bill 2013 will be applied to new awards on or after July 1, 2003, regardless of the effective injury date. As a result of this decision, a $330 million reduction (due to Senate Bill 2013) recognized in the June 30, 2003, discounted claims liability number was not modified, and an additional $144 million related to the new law was recognized in the June 30, 2004, financial statements.

During the past 20 months, the commission has made considerable improvement in its operations and has demonstrated the ability to operate a solvent fund on a prospective basis. However, the outstanding deficit attributable to decades of inefficient operations remains an issue. The commission's cash balance available for investment is not sufficient to produce investment earnings equal to the annual unpaid claims liabilities amortization, which is necessary to avoid expansion of the deficit in future periods. The deficiency in 2004 was offset through the additional deficit related premium charges incorporated into the rate-making process.

On January 29, 2005, Senate Bill 1004 was passed by the West Virginia Legislature. Under the law enacted, the Workers' Compensation Commission ceases to exist as a state entity that is the sole provider of workers' compensation insurance in the state of West Virginia as of December 31, 2005. The legislation also establishes, on January 1, 2006, a private employer's mutual insurance fund, which will be the sole provider of workers' compensation insurance coverage until 2008. On July 1, 2008, the insurance market will be opened to competition, and West Virginia employers may elect to purchase insurance for workers' compensation liabilities from any private carrier of the insurance licensed by the state of West Virginia.

A plan has been developed and is contained in the new law to pay for the outstanding liabilities of the monopolistic state workers' compensation fund. The liabilities shall be split into separate funds according to the dates of injury of the claims filed. The custodian of the Old Workers' Compensation Fund shall be the Treasurer of the State of West Virginia, and revenues to pay the existing liabilities shall be provided from several sources, including tobacco settlement funds, taxation of private insurance carriers of workers' compensation insurance, excess lottery revenues, and severance taxes on natural resources.

Unfunded Liabilities: State Retirement Systems

The Consolidated Public Retirement Board (CPRB) was created by legislation passed in 1990, effective July 1, 1991, to administer all of the state's public retirement plans.

In 1992, CPRB completed actuarial studies on the various retirement systems of the State of West Virginia to determine the amount of the systems' unfunded liabilities. At that time, the Teachers' Retirement System (TRS), the Judges' Retirement System (JRS), and the Public Safety Death, Disability, and Retirement Fund (Plan A) were found to have unfunded liabilities of $2.89 billion, $23.20 million, and $107.30 million respectively. The Public Employees' Retirement System (PERS) was found to be well-funded. The State committed to a plan to increase the funding of the underfunded plans as shown in the chart below. Contributions to the various retirement plans are made in such a manner as to satisfy the unfunded liabilities as follows:

- Teachers' Retirement System—Instituted a 40-year payment plan to be completed by June 30, 2034. The payment plan was revised in 1999 to provide that all improvements be funded over seven years from the improvement date.
- Judges' Retirement System—Instituted a 25-year payment plan to be completed by June 30, 2018.
- Public Safety Death, Disability, and Retirement Fund (Plan A)—Instituted a 30-year payment plan to be completed by June 30, 2025.

The unfunded liability for each plan as of July 1, 2004, is as follows:

PERS	$774,541,000	(80.0% funded)*
TRS	$5,013,263,000	(22.2% funded)*
JRS	$22,219,000	(74.1% funded)*
Public Safety—Plan A	$344,039,000	(25.6% funded)*
Public Safety—Plan B**	$2,220,000	(90.0% funded)*

*Per plan, funded percentage of plan assets as a percent of actuarial accrued liabilities, including projected salary increases.
**Public Safety—Plan B was enacted March 12, 1994.

The State continues to explore alternative ways to fund these obligations. Senate Joint Resolution 101 was passed in the 2005 Special Session, proposing an amendment to the Constitution of the State of West Virginia which, if approved by the voters, would allow the issuance of pension obligation bonds to fully fund the liabilities in the Teachers Retirement System; the Public Safety, Death, and Disability Retirement System; and the Judges Retirement System. Issuing pension bonds could generate savings of the difference between annual contributions under the current payment plan and the varying debt service on the pension obligation bonds. Potential savings are dependent upon two factors. The first factor is the actuarial valuation interest rate over the repayment period, currently at 7.5%, that is subject to an annual investment review by the Consolidated Public Retirement Board. That rate may be adjusted by the CPRB annually based upon investment experience results, upon investment expectations as prepared by the Investment Management Board, upon investment expectations as prepared by independent investment consultants, and upon actuarial expectations and practices. The second factor is the interest and expense costs of the pension bonds over the same repayment period. Actual savings, if any, are dependent upon the differences between those two rates over the entire repayment period.

Summary

Over the last fifteen years, the groundwork has been laid for an infrastructure geared toward economic development.

* Imposed fiscal discipline in funding the state's retirement systems, health care plans, and workers' compensation costs
* Performed a statewide overhaul of school facilities and established measurable performance standards for all grade levels
* Replaced an inefficient, costly, and outdated system of county jails with a modern, efficient, and effective system of regional jails, along with the renovation and construction of prisons and juvenile facilities
* Addressed water and sewer project needs through bond financing and cost-sharing with federal grant and loan programs
* Focused state transportation network improvements in areas that leverage the state's proximity to thriving markets such as Columbus, Ohio, and Washington, D.C.

These efforts have had a tangible effect on the following indicators:

- The gap between the state's unemployment rate of 18% and the national rate was 8.4% in 1983. As of November 2004, the state's seasonally adjusted rate of 4.8% is six-tenths of a percentage point lower than the national rate of 5.4%.
- Over 75% of all students are in facilities that are new or have been renovated since 1990.
- 17.0% of West Virginians held a college degree in 2003, compared to 12.7% in 1995.

Continued change is needed to achieve greater results faster. West Virginia must make the complete transition to jobs based on technology and education. Improvements to all facets of our infrastructure (roads and schools, workforce, health care systems) are the key to accomplishing that transition. The Governor and Legislature share a commitment to making those improvements.